IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WP(C).No. 3533 of 2006(U)

PETITIONER:

P.USHA, LAKSHMI VILASOM,
CHINGELI, KADAKKAL.P.O, KOLLAM DISTRICT.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:

1.STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

3. DETECTIVE INSPECTOR,
CRIME BRANCH CID, KOLLAM.

4. SUB INSPECTOR OF POLICE,
KADAKKAL.

5. CENTRAL BUREAU OF INVESTIGATION,
NEW DELHI, REPRESENTED BY ITS DIRECTOR.

R1 TO R4 BY PUBLIC PROSECUTOR SRI PUZHAKKARA MUHAMMED.
R5 BY SRI.S.SREEKUMAR, SC FOR CBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 3-10-2006, THE COURT ON 6-12-2006 DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

W.P.C.NO.3533 OF 2006

DATED THIS THE 6TH DAY OF NOVEMBER 2006

JUDGMENT

The petitioner, who is the wife of Sri. K.B.Radhakrishnan, aged 34 years, who was, according to the petitioner, brutally murdered between 8.30 p.m. of 13-11-1998 and 7 a.m. on 14-11-1998, has sought for further investigation in the matter by the Central Bureau of Investigation. It is submitted that the deceased was running a parallel college at Chingoli Junction and there was stiff competition. On 13-11-1998 at about 8 p.m., the deceased left the house saying that he would return soon. He was in the habit of going out at night to keep an eye on the building and the premises of the parallel college as anti social elements used to enter the place for illicit activities. It is also submitted that the deceased was a Youth Congress activist. On the next day the dead body of her husband was found in a twenty feet pit, dug for constructing septic tank. The deceased had no reason to go near the pit or the building under construction. The deceased was very much aware of the existence of such a pit. The petitioner suspects that he was murdered and thrown into the pit . The F.I.R. in the matter was registered by the Kadakkal police and thereafter on

account of the complaint submitted by the action council formed by the local people the case was handed over to the Crime Branch. According to the petitioner, the investigation by the Crime Branch was also found to be ineffective. It is pointed out that there were a number of anti-mortem injuries on the body of the deceased. The fact that there was no progress in the investigation by the Crime Branch was also reported by the media. He has also produced the newspaper cuttings, i.e. Exts.P3 and P4 in this regard. It is alleged that the local M.L.A. has handed over a copy of letter addressed to him wherein it is mentioned that one person by name P.D.P.Raju is responsible for the incident, produced as Ext.P5. It is further pointed out that "huge" blood stains were found near the place of occurrence and the same was found to be human blood. The explanation of the Crime Branch that the above blood stains would have been caused from the feet of some persons who had crowded at the place as they would have stepped on some broken glass pieces or metallic objects. It is submitted that the refer report filed by the Crime Branch should be rejected and further investigation by the C.B.I. ordered.

2. The C.D.was produced and the counsel for both sides heard.

3. The postmortem certificate by the police surgeon shows that the death was caused due to head and chest injuries . Anti-mortem

injuries noted are fracture of seventh thoracic vertebra, fracture of multiple ribs, laceration on the lung, fracture of sternum and a few abrasions and contusions. The C.D.has disclosed that the medical opinion is to the effect that the death could have been caused due to fall into the septic tank pit and that the injuries that was noted in the post mortem certificate can be caused due to the fall into the pit which had a depth of 5.69 metres. The C.B.C.I.D.team has questioned exactly 100 persons of the locality apart from the police surgeon. The finding of the investigating officer, i.e.Detective Inspector, CBCID is that while the deceased, who was proceeding to the premises at the tutorial college through the pathway near the pit, would have fallen therein walking in an absent minded manner and the fatal injuries would have resulted. The investigation revealed that the deceased had no enemies as such. Blood stains found near the scene of occurrence on the grass and dried leaves that might have been due to injuries caused from the feet of somebody who had assembled and when their feet came into contact with pieces of glass or sharp metallic objects that would have been thrown away from the workshop of the blacksmith situated nearby. It is also mentioned that the services of the dog squad was also utilised in investigation. It is also pointed out that the deceased was a healthy person and it was not easy to over

throw him without leaving any evidence of scuffle. It is also pointed out that the death was on account of the internal injuries. There was no particular external injuries as such.

4. On a perusal of the C.D., I find that somewhat exhaustive investigation has been conducted by the Crime Branch. There is no case that the deceased had any enemies as already noted above in particular. Involvement of any inter-state criminal gangs is not suspected. In the circumstances, I find that the investigation by the Central Bureau of Investigation is not warranted. All the same, the Superintendent of Police, CBCID, Kollam is directed to verify the investigation carefully and if required, the same is to be reopened. Verification shall be done at the earliest at any rate within two months from the date of receipt of a copy of this judgment. The writ petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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